

REMARKS

Claims 35-64 were presented and examined. In response to the Office Action, no claims are amended, cancelled, or added. Reconsideration is respectfully requested in view of the remarks that follow.

1. Rejection of Claims Under 35 U.S.C. 102(a)

Claims 35-64 remain rejected under 35 U.S.C. 102(a) as being anticipated by Kim *et al.* (International Organisation for Standardisation Organisation Internationale de Normalisation ISO/IEC JTC1/SC29/WG11 Coding of Moving Pictures and Audio; hereinafter Kim; already of record). The Applicants respectfully submit that this reference may not be used in a rejection based on 35 U.S.C. 102(a).

The Examiner did not accept the declaration because it was not signed by all the inventors (*See* Final Office Action, pg. 3). However, upon further review of the M.P.E.P., the section cited by the Examiner refers to declarations under 37 C.F.R. 1.131, not 37 C.F.R. 1.132. In this situation, the Applicants note that it is not necessary to submit a declaration to disqualify this reference. M.P.E.P. 716.10 provides “Example 1,” which states:

During the search the examiner finds a reference fully describing the claimed invention. The applicant is the author or patentee and it was published or patented less than one year prior to the filing date of the application. The reference cannot be used against applicant since it does not satisfy the 1-year time requirement of 35 U.S.C. 102(b).

The scenario of the above “Example 1” appears to be analogous to the current situation because all the applicants of the current application comprise the same list as the authors of the publication Kim. A declaration is not needed to realize this aspect. Seeing as the publication was cited as prior art under 35 U.S.C. 102(a), we note that the reference is improper and accordingly, the Examiner should withdraw this rejection. The Applicants’ representative, Olivia Tsai (Reg. No. 58,350), discussed this issue with the Examiner over the telephone on July 30, 2009 and the Examiner appeared receptive to this position. This Response presents these statements in writing so that they would be in the record to

disqualify the cited reference. The Examiner indicated that he could then discuss with his Supervisor on how to proceed with this case.

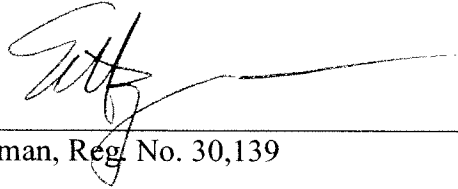
CONCLUSION

In view of the foregoing, it is believed that all claims are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

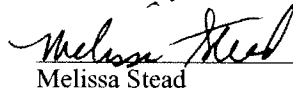
Dated: August 24, 2009



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I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below.


Melissa Stead

8-25-09
August 25, 2009